
Judiciary Committee

HB 1022

Title: An act relating to statutory costs.

Brief Description: Changing provisions regarding statutory costs.

Sponsors: Representatives Williams, Warnick, Kelley, Rodne, Dickerson and Moeller.

Brief Summary of Bill

- Expressly allows a plaintiff to recover certain costs of bringing a lawsuit.
- Applies if, after the lawsuit is filed, the defendant offers and the plaintiff accepts full or partial payment of the amount sued for, and the plaintiff gave the defendant prior written notice that the defendant may still be liable for those costs in addition to the payment accepted.

Hearing Date: 1/14/09

Staff: Kate Moeur White (786-5793), Edie Adams (786-7180)

Background:

Generally in civil actions, "statutory costs," a party's expenses in an action, are not recoverable by the prevailing party unless permitted by contract, statute, or some recognized ground in equity. However, there are statutes that allow a prevailing party to recover his or her statutory costs which can include attorneys' fees.

Statutory costs may include filing fees, service of process fees, reasonable expenses incurred in obtaining records, witness fees, and statutory attorneys' fees. The statutory attorneys' fee is generally \$200. However, in district court cases, the prevailing party is not entitled to the statutory attorneys' fee if the judgment is for less than \$50. If the judgment is at least \$50 but less than \$200, the statutory attorneys' fee is \$125.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A defendant is entitled to costs if, before the action is commenced, the defendant offered to pay the full amount owed to the plaintiff, and the plaintiff refused the offer. A defendant is also entitled to costs if, after an action is commenced, the defendant deposits with the court the amount the defendant believes is owed plus costs, and the plaintiff refuses to accept it and subsequently recovers a lesser amount than offered.

"Prevailing party" is defined in different ways for different purposes. For example, in actions involving \$10,000 or less, a plaintiff or party seeking relief is deemed a prevailing party when the recovery, excluding costs, is as much as or more than the amount offered in settlement. For actions regarding the enforcement of contract or lease provisions, prevailing party means the party in whose favor final judgment is rendered.

Summary of Bill:

A plaintiff is the prevailing party and therefore entitled to costs if, after an action is commenced, the defendant offers and the plaintiff accepts full or partial payment of the amount sued for and the plaintiff had given the defendant prior written notice that the defendant could still be liable for costs regardless of full or partial payment. Upon application by the plaintiff who is the prevailing party, the court is to enter a judgment for those costs, except those costs that are paid before entry of judgment.

The same provision applies to cases in district court. However, the plaintiff is not entitled to the statutory attorneys' fees portion of costs unless the amount asked for in the complaint, exclusive of costs, is \$50 or more. In a case where the amount asked for is at least \$50 but less than \$200, the statutory attorneys' fees is \$125.

Nothing prevents a party from demanding, offering, or accepting payment of statutory costs, or from reducing or waiving statutory costs before entry of judgment.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.